

§ 134.26

CERTIFICATE OF MARKING—REPACKED J-LIST ARTICLES AND ARTICLES INCAPABLE OF BEING MARKED

(Port of entry) _____

I, _____ of _____, certify that if the article(s) covered by this entry (entry no.(s) dated _____), is (are) repacked in a new container(s), while still in my possession, the new containers, unless excepted, shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the container(s) will permit, in such manner as to indicate the country of origin of the article(s) to the ultimate purchaser(s) in accordance with the requirements of 19 U.S.C. 1304 and 19 CFR part 134. I further certify that if the article(s) is (are) intended to be sold or transferred by me to a subsequent purchaser or repacker, I will notify such purchaser or transferee, in writing, at the time of sale or transfer, of the marking requirements.

Date _____

Importer _____

The certification statement may appear as a typed or stamped statement on an appropriate entry document or commercial invoice, or on a preprinted attachment to such entry or invoice; or it may be submitted in blanket form to cover all importations of a particular product for a given period (e.g., calendar year). If the blanket procedure is used, a certification must be filed at each port where the article is entered.

(b) *Facsimile signatures.* The certification statement may be signed by means of an authorized facsimile signature.

(c) *Time of filing.* The certification statement shall be filed with the port director at the time of entry summary. If the certification is not available at that time, a bond shall be given for its production in accordance with §141.66, Customs Regulations (19 CFR 141.66). In case of repeated failure to timely file the certification required under this section, the port director may decline to accept a bond for the missing document and demand redelivery of the merchandise under §134.51, Customs Regulations (19 CFR 134.51).

(d) *Notice to subsequent purchaser or repacker.* If the article is sold or transferred to a subsequent purchaser or repacker the following notice shall be given to the purchaser or repacker:

19 CFR Ch. I (4–1–03 Edition)

NOTICE TO SUBSEQUENT PURCHASER OR REPACKER

These articles are imported. The requirements of 19 U.S.C. 1304 and 19 CFR part 134 provide that the articles or their containers must be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article or container will permit, in such a manner as to indicate to an ultimate purchaser in the United States, the English name of the country of origin of the article.

(e) *Duties and penalties.* Failure to comply with the certification requirements in paragraph (a) may subject the importer to a demand for liquidated damages under §134.54(a) and for the additional duty under 19 U.S.C. 1304. Fraud or negligence by any person in furnishing the required certification may also result in a penalty under 19 U.S.C. 1592.

[T.D. 83–155, 48 FR 33863, July 26, 1983]

§ 134.26 Imported articles repacked or manipulated.

(a) *Certification requirements.* If an article subject to these requirements is intended to be repacked in retail containers (e.g., blister packs) after its release from Customs custody, or if the port director having custody of the article, has reason to believe such article will be repacked after its release, the importer shall certify to the port director that: (1) If the importer does the repacking, he shall not obscure or conceal the country of origin marking appearing on the article, or else the new container shall be marked to indicate the country of origin of the article in accordance with the requirements of this part; or (2) if the article is intended to be sold or transferred to a subsequent purchaser or repacker, the importer shall notify such purchaser or transferee, in writing, at the time of sale or transfer, that any repacking of the article must conform to these requirements. The importer, or his authorized agent, shall sign the following statement.

CERTIFICATE OF MARKING BY IMPORTER—REPACKED ARTICLES SUBJECT TO MARKING

(Port of entry) _____

I, _____ of _____, certify that if the article(s) covered by this entry (entry no.(s) dated _____), is (are) repacked in retail container(s) e.g., blister packs), while still in

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my possession, the new container(s) will not conceal or obscure the country of origin marking appearing on the article(s), or else the new container(s), unless excepted, shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the container(s) will permit, in such manner as to indicate the country of origin of the article(s) to the ultimate purchaser(s) in accordance with the requirements of 19 U.S.C. 1304 and 19 CFR part 134. I further certify that if the article(s) is (are) intended to be sold or transferred by me to a subsequent purchaser or repacker, I will notify such purchaser or transferee, in writing, at the time of sale or transfer, of the marking requirements.

Date _____

Importer _____

The certification statement may appear as a typed or stamped statement on an appropriate entry document or commercial invoice, or on a preprinted attachment to such entry or invoice; or it may be submitted in blanket form to cover all importations of a particular product for a given period (e.g., calendar year). If the blanket procedure is used, a certification must be filed at each port where the article(s) is entered.

(b) *Facsimile signatures.* The certification statement may be signed by means of an authorized facsimile signature.

(c) *Time of filing.* The certification statement shall be filed with the port director at the time of entry summary. If the certification is not available at that time, a bond shall be given for its production in accordance with §141.66, Customs Regulations (19 CFR 141.66). In case of repeated failure to timely file the certification required under this subsection, the port director may decline to accept a bond for the missing document and demand redelivery of the merchandise under §134.51, Customs Regulations (19 CFR 134.51).

(d) *Notice to subsequent purchaser or repacker.* If the article is sold or transferred to a subsequent purchaser or repacker the following notice shall be given to the purchaser or repacker:

NOTICE TO SUBSEQUENT PURCHASER OR REPACKER

These articles are imported. The requirements of 19 U.S.C. 1304 and 19 CFR part 134 provide that the articles in their containers must be marked in a conspicuous place as legibly, indelibly and permanently as the na-

ture of the article or container will permit, in such a manner as to indicate to an ultimate purchaser in the United States, the English name of the country of origin of the article.

(e) *Duties and penalties.* Failure to comply with the certification requirements in paragraph (a) may subject the importer to a demand for liquidated damages under §134.54(a) and for the additional duty under 19 U.S.C. 1304. Fraud or negligence by any person in furnishing the required certification may also result in a penalty under 19 U.S.C. 1592.

(f) *Exceptions.* The requirements of this section do not apply to repackaging in a container that can readily be opened for inspection by the ultimate purchaser in the United States, unless such container bears a U.S. address or other potentially misleading marking.

[T.D. 84-127, 49 FR 22795, June 1, 1984]

Subpart D—Exceptions to Marking Requirements

§ 134.31 Requirements of other agencies.

Nothing in this subpart shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of any law, such as those of the Federal Trade Commission, Food and Drug Administration, and other agencies.

§ 134.32 General exceptions to marking requirements.

The articles described or meeting the specified conditions set forth below are excepted from marking requirements (see subpart C of this part for marking of the containers):

(a) Articles that are incapable of being marked;

(b) Articles that cannot be marked prior to shipment to the United States without injury;

(c) Articles that cannot be marked prior to shipment to the United States except at an expense economically prohibitive of its importation;

(d) Articles for which the marking of the containers will reasonably indicate the origin of the articles;